



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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MAR 18 2004

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3000 K STREET NW  
WASHINGTON DC 20007-5300

In re Application of :  
David M. Goldenberg :  
Serial No.: 09/921,290 : WITHDRAWAL OF ATTORNEY  
Filed: August 3, 2001 :  
Attorney Docket No.: 018733-1012 :

This is in response to applicants' attorneys' request, filed February 26, 2004, to withdraw from representation in the above identified application.

37 CFR 10.40 Withdrawal from employment.

- (b) Mandatory withdrawal. A practitioner representing a client before the Office shall withdraw from employment if:
- (1) The practitioner knows or it is obvious that the client is bringing a legal action, commencing a proceeding before the Office, conducting a defense, or asserting a position in litigation or any proceeding pending before the Office, or is otherwise having steps taken for the client, merely for the purpose of harassing or maliciously injuring any person;
  - (2) The practitioner knows or it is obvious that the practitioner's continued employment will result in violation of a Disciplinary Rule;
  - (3) The practitioner's mental or physical condition renders it unreasonably difficult for the practitioner to carry out the employment effectively; or
  - (4) The practitioner is discharged by the client.
- (c) Permissive withdrawal. If paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matters pending before the Office unless such request or such withdrawal is because:
- (1) The petitioner's client:
    - (i) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law;
    - (ii) Personally seeks to pursue an illegal course of conduct;
    - (iii) Insists that the practitioner pursue a course of conduct that is illegal or that is prohibited under a Disciplinary Rule;
    - (iv) By other conduct renders it unreasonably difficult for the practitioner to carry out the employment effectively;
    - (v) Insists, in a matter not pending before a tribunal, that the practitioner engage in conduct that is contrary to the judgment and advice of the practitioner but not prohibited under the Disciplinary Rule; or
    - (vi) Has failed to pay one or more bills rendered by the practitioner for an unreasonable period of time or has failed to honor an agreement to pay a retainer in advance of the performance of legal services.
  - (2) The practitioner's continued employment is likely to result in a violation of a Disciplinary Rule;
  - (3) The practitioner's inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal;
  - (4) The practitioner's mental or physical condition renders it difficult for the practitioner to carry out the employment effectively;
  - (5) The practitioner's client knowingly and freely assents to termination of the employment; or

(6) The practitioner believes in good faith, in a proceeding pending before the Office, that the Office will find the existence of other good cause for withdrawal.

Applicants' attorney has provided no reason for withdrawal, as required.

The request to withdraw is **DISMISSED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at Office facsimile number.

A handwritten signature in black ink, appearing to read 'William R. Dixon, Jr.', with a stylized flourish at the end.

William R. Dixon, Jr.  
Special Program Examiner  
Technology Center 1600